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ABSTRACT

This report describes lessons learned from the Broward Detention Initiative (BDI) in Broward County, Florida, a successful detention reform effort that led to attempts at replication. Chapter 1, "The Predecessor Program: The Broward Detention Initiative," explains key factors in BDI's success (e.g., the site was ready, problems were effectively assessed, clear goals and objectives were developed, existing and new alternatives were used, and mechanisms were built to reinforce reforms). Chapter 2, "The Political Winds Shift," examines political events during the years between the BDI and the Florida Detention Initiative (FDI), which included passing the 1990 Juvenile Justice Reform Act, developing a more conservative political environment, and passing the 1994 Juvenile Justice Reform Act. Chapter 3, "The Replication Project: The Florida Detention Initiative," presents issues surrounding implementation of the FDI: sites selected, goals developed, technical assistance and training provided, local partnerships forged, statutes limited options, external pressure for reform limited, goal ambiguity hindered progress, lack of FDI organization at the local level occurred, role of the Center for the Study of Youth Policy in local sites diminished, and data collection and research not prioritized. Chapter 4 "Florida Detention Initiative Outcomes," examines outcomes in three Florida locations. Chapter 5, "Lessons Learned," presents 13 lessons learned through this experience. (SM)

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PATHWAYS TO JUVENILE DETENTION REFORM

REPLICATING DETENTION REFORM

lessons from the Florida Detention Initiative

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12

REPLICATING DETENTION REFORM

lessons from the Florida Detention Initiative

by Donna M. Bishop and Pamala L. Griset

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SERIES PREFACE

Many years ago, Jim Casey, a founder and long-time CEO of the United Parcel Service, observed that his least prepared and least effective employees were those unfortunate individuals who, for various reasons, had spent much of their youth in institutions, or who had been passed through multiple foster care placements. When his success in business enabled him and his siblings to establish a philanthropy (named in honor of their mother, Annie E. Casey), Mr. Casey focused his charitable work on improving the circumstances of disadvantaged children, in particular by increasing their chances of being raised in stable, nurturing family settings. His insight about what kids need to become healthy, productive citizens helps to explain the Casey Foundation's historical commitment to juvenile justice reform. Over the past two decades, we have organized and funded a series of projects aimed at safely minimizing populations in juvenile correctional facilities through fairer, better informed system policies and practices and the use of effective community-based alternatives.

In December 1992, the Annie E. Casey Foundation launched a multi-year, multi-site project known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI's purpose was straightforward: to demonstrate that jurisdictions can establish more effective and efficient systems to accomplish the purposes of juvenile detention. The initiative was inspired by work that we had previously funded in Broward County, Florida, where an extremely crowded, dangerous, and costly detention operation had been radically transformed. Broward County's experience demonstrated that interagency collaboration and data-driven policies and programs could reduce the numbers of kids behind bars without sacrificing public safety or court appearance rates.

Our decision to invest millions of dollars and vast amounts of staff time in JDAI was not solely the result of Broward County's successful pilot endeavors, however. It was also stimulated by data that revealed a rapidly emerging national crisis in juvenile detention. From 1985 to 1995, the number of youth held in secure detention nationwide increased by 72 percent *(see Figure A)*. This increase

might be understandable if the youth in custody were primarily violent offenders for whom no reasonable alternative could be found. But other data *(see Figure B)* reveal that less than one-third of the youth in secure custody (in a one-day snapshot in 1995) were charged with violent acts. In fact, far more kids in this one-day count were held for status offenses (and related court order violations) and failures to comply with conditions of supervision than for dangerous delinquent behavior. Disturbingly, the increases in the numbers of juveniles held in secure detention facilities were severely disproportionate across races. In 1985, approximately 56 percent of youth in detention on a given day were white, while 44 percent were minority youth. By 1995, those numbers were reversed *(see Figure C)*, a consequence of greatly increased detention rates for African-American and Hispanic youth over this 10-year period.[1]

As juvenile detention utilization escalated nationally, crowded facilities became the norm rather than the exception. The number of facilities

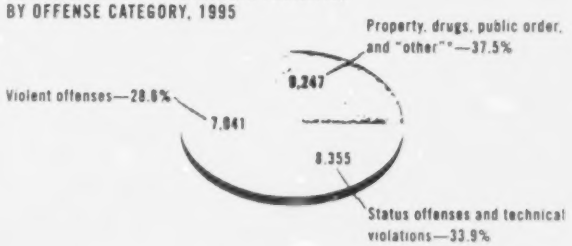
FIGURE A

AVERAGE DAILY POPULATION OF JUVENILES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE B

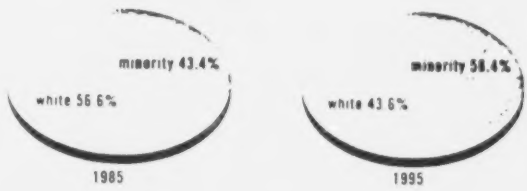
ONE-DAY COUNTS IN DETENTION FACILITIES BY OFFENSE CATEGORY, 1995



*Examples of "other" include alcohol and technical violations.
Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE C

JUVENILES IN PUBLIC DETENTION CENTERS BY MINORITY STATUS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

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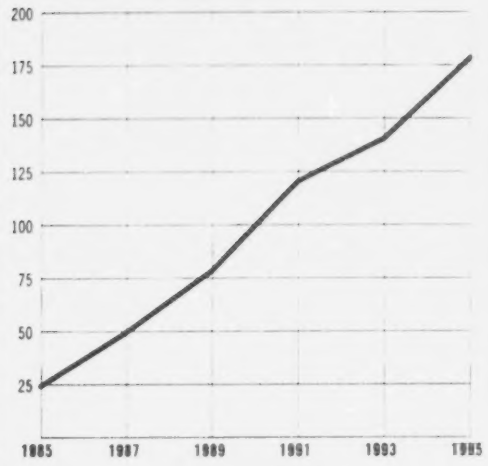
operating above their rated capacities rose by 642 percent, from 24 to 178, between 1985 and 1995 (*see Figure D*), and the percentage of youth held in overcrowded detention centers rose from 20 percent to 62 percent during the same decade (*see Figure E*). In 1994, almost 320,000 juveniles entered overcrowded facilities compared to 61,000 a decade earlier.

FIGURE D

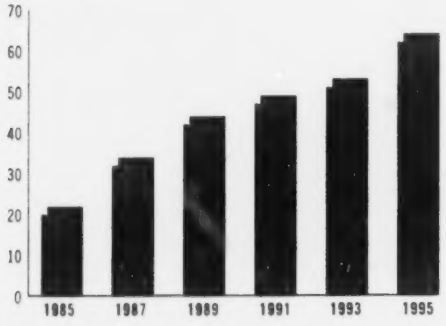
NUMBER OF OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

FIGURE E

PERCENTAGE OF JUVENILES IN OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

Crowding is not a housekeeping problem that simply requires facility administrators to put extra mattresses in day rooms when it's time for lights out. Years of research and court cases have concluded that overcrowding produces unsafe, unhealthy conditions for both detainees and staff. A recently published report by staff of the National Juvenile Detention Association and the Youth Law Center summarizes crowding's impact:

> *Crowding affects every aspect of institutional life, from the provision of basic services such as food and bathroom access to programming, recreation, and education. It stretches existing medical and mental health resources and, at the same time, produces more mental health and medical crises. Crowding places additional stress on the physical plant (heating, plumbing, air circulation) and makes it more difficult to maintain cleaning, laundry, and meal preparation. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior rises. In crowded facilities, staff invariably resort to increased control measures such as lockdowns and mechanical restraints.*[2]

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Crowding also puts additional financial pressure on an already expensive public service. Operating costs for public detention centers more than doubled between 1985 and 1995, from $362 million to almost $820 million *(see Figure F).* Some of these increased operating expenses are no doubt due to emergencies, overtime, and other unbudgeted costs that result from crowding.

FIGURE F

TOTAL OPERATING EXPENDITURES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

JDAI was developed as an alternative to these trends, as a demonstration that jurisdictions could control their detention destinies. The initiative had four objectives:

- to eliminate the inappropriate or unnecessary use of secure detention;
- to minimize failures to appear and the incidence of delinquent behavior;
- to redirect public finances from building new facility capacity to responsible alternative strategies; and
- to improve conditions in secure detention facilities.

To accomplish these objectives, participating sites pursued a set of strategies to change detention policies and practices. The first strategy was *collaboration,* the coming together of disparate juvenile justice system stakeholders and other potential partners (like schools, community groups, the mental health system) to confer, share information, develop system-wide policies, and to promote accountability. Collaboration was also essential for sites to build a consensus about the limited purposes of secure detention. Consistent with professional standards and most statutes, they agreed that secure detention should be used only *to ensure that alleged delinquents appear in court at the proper times and to protect the community by minimizing serious delinquent acts while their cases are being processed.*

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Armed with a clearer sense of purpose, the sites then examined their systems' operations, using objective data to clarify problems and dilemmas, and to suggest solutions. They changed how admissions decisions were made (to ensure that only high-risk youth were held), how cases were processed (particularly to reduce lengths of stay in secure detention), and created new alternatives to detention programs (so that the system had more options). Each site's detention facility was carefully inspected and deficiencies were corrected so that confined youth were held in constitutionally required conditions. Efforts to reduce disproportionate minority confinement, and to handle "special" detention cases (e.g., probation violations or warrants), were also undertaken.

In practice, these reforms proved far more difficult to implement than they are now to write about. We began JDAI with five sites: Cook County, IL; Milwaukee County, WI; Multnomah County, OR; New York City; and Sacramento County, CA. Just about when implementation activities were to begin, a dramatic shift occurred in the nation's juvenile justice policy environment. High-profile cases, such as the killing of several tourists in Florida, coupled with reports of significantly increased juvenile violence, spurred both media coverage and new legislation antithetical to JDAI's notion that some youth might be "inappropriately or unnecessarily" detained. This shift in public opinion complicated matters in virtually all of the sites. Political will for the reform strategies diminished as candidates tried to prove they were tougher on juvenile crime than their opponents. Administrators became reluctant to introduce changes that might be perceived as "soft" on delinquents. Legislation was enacted that drove detention use up in several places. Still, most of the sites persevered.

At the end of 1998, three of the original sites—Cook, Multnomah, and Sacramento Counties—remained JDAI participants. Each had implemented a complex array of detention system strategies. Each could claim that they had fundamentally transformed their system. Their experiences, in general, and the particular strategies that they implemented to make their detention systems smarter, fairer, more efficient, and more effective, offer a unique learning laboratory for policymakers and practitioners who want to improve this critical component of

the juvenile justice system. To capture their innovations and the lessons they learned, we have produced this series of publications—***Pathways to Juvenile Detention Reform.*** The series includes 13 monographs, all but two of which cover a key component of detention reform. (As for the other two monographs, one is a journalist's account of the initiative, while the other describes Florida's efforts to replicate Broward County's reforms statewide.) A complete list of the titles in the *Pathways* series is provided at the end of this publication.

By the end of 1999, JDAI's evaluators, the National Council on Crime and Delinquency, will have completed their analyses of the project, including quantitative evidence that will clarify whether the sites reduced reliance on secure detention without increasing rearrest or failure-to-appear rates. Data already available, some of which was used by the authors of these monographs, indicate that they did, in spite of the harsh policy environment that drove detention utilization up nationally.

For taking on these difficult challenges, and for sharing both their successes and their failures, the participants in the JDAI sites deserve sincere thanks. At a time when kids are often disproportionately blamed for many of society's problems, these individuals were willing to demonstrate that adults should and could make important changes in their own behavior to respond more effectively to juvenile crime.

Bart Lubow
Senior Associate and Initiative Manager
The Annie E. Casey Foundation

Notes

[1] In 1985, white youth were detained at the rate of 45 per 100,000, while African-American and Hispanic rates were 114 and 73, respectively. By 1995, rates for whites had decreased by 13 percent, while the rates for African-Americans (180 percent increase) and Hispanics (140 percent increase) had skyrocketed. Wordes, Madeline and Sharon M. Jones. 1998. "Trends in Juvenile Detention and Steps Toward Reform." *Crime and Delinquency, 44(4):*544-560.

[2] Burrell, Sue, et. al., *Crowding in Juvenile Detention Centers: A Problem-Solving Manual,* National Juvenile Detention Association and Youth Law Center, Richmond, KY, prepared for the U.S. Department of Justice, Department of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (December 1998), at 5-6.

Chapter 1

THE PREDECESSOR PROGRAM: THE BROWARD DETENTION INITIATIVE

How can we build on our successes? How can we take the lessons learned from one juvenile detention reform movement and apply them to others? How do we ensure that good ideas are not lost, that progress in one jurisdiction is used to benefit other jurisdictions?

In Florida, a successful detention reform effort in Broward County in the late 1980s led to an attempt to go to scale—to implement a smarter, fairer, and more humane juvenile detention system statewide. Yet, broad-scale reproduction of the Broward Detention Initiative (BDI) was stymied as the political environment became more conservative and statutory detention criteria were expanded. This report discusses what can happen when a local detention reform initiative is expanded in the face of changing political forces.

Most successful experiments in detention reform have been instituted at the local level. The Florida experience suggests that success in a single locale does not easily translate into success in other jurisdictions. Replication poses an additional set of issues and obstacles. The lessons are applicable to others considering bringing a local detention initiative to scale.

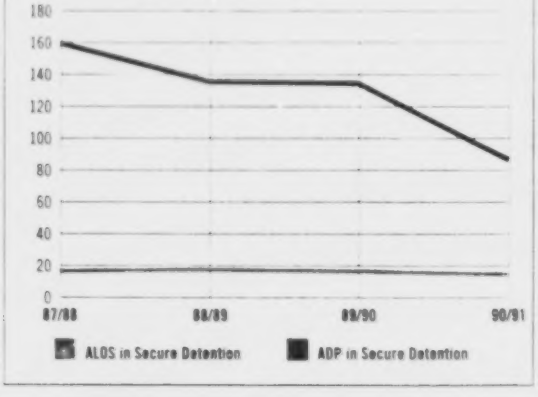
In the mid-1980s, the Broward detention center was chronically overcrowded. Designed to house 109, it had an average daily population of 157 in early 1987. The effects of overcrowding were palpable: classrooms had been converted to dormitories, children slept on floors, schooling and recreation were limited, physical abuse was reported, and extended periods of isolation were common.[1]

These conditions prompted the filing of a federal class action lawsuit in the spring of 1987 against the detention superintendent and the Department of Health and Rehabilitative Services (DHRS), the large state social service agency that was then responsible for juvenile justice operations. The suit alleged cruel and unsafe conditions within the detention center. For over a year the parties remained entrenched in a logjam of protracted and adversarial discovery. The deadlock was broken after an infusion of resources from the Annie E. Casey Foundation to sup-

port the BDI, which became a comprehensive and multi-faceted project designed to reduce the detention center population and improve conditions of confinement. Over the next two years, despite growing numbers of delinquency referrals, Broward realized dramatic reductions in average daily population (see Figure 1). New alternatives to secure detention were created, and new and previously underused alternatives to detention became active at unprecedented levels (see Figure 2). These changes occurred at substantial cost savings and without increasing the risk to public safety.

Key factors in BDI's successful reform are summarized below.

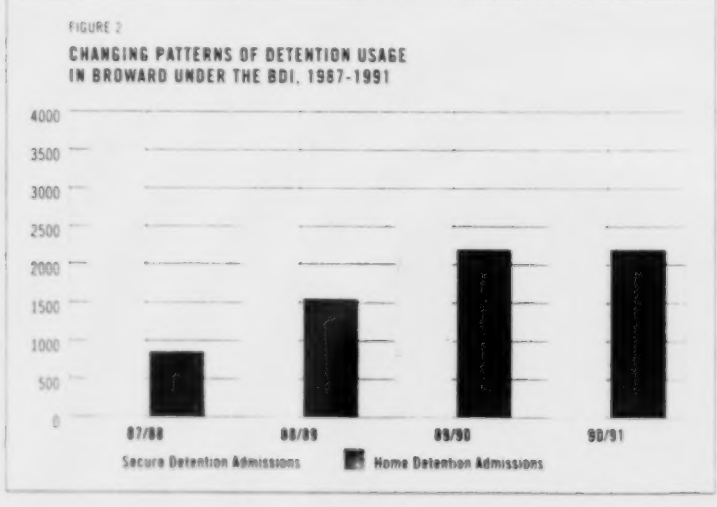
FIGURE 1
CHANGES IN SECURE DETENTION ADP AND ALOS UNDER THE BDI



1. The Site Was Ready.

Successful reform initiatives depend on political and organizational environments that are receptive to change. In Broward, the lawsuit was a powerful catalyst to reform. Not long after the suit was filed, the federal court entered an injunction ordering DHRS to make changes at the institution and threatening to hold the secretary of the agency in contempt. The possibility loomed large that federal courts might impose a cap on the institutional population and order the wholesale release of detainees without regard to considerations of risk. The lawsuit succeeded in creating a "problem" and making it a justice system priority. In this climate of crisis, the Center for the Study of Youth Policy (CSYP), headed by retired Juvenile Court Judge Frank Orlando, took a facilitative leadership role and offered to assist with mediation of the lawsuit. With support from

FIGURE 2
CHANGING PATTERNS OF DETENTION USAGE IN BROWARD UNDER THE BDI, 1987-1991



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the Annie E. Casey Foundation to fund the mediation process, key stakeholders began to work cooperatively to study the problem, identify common goals, and develop partnerships in a change effort. Judge Orlando became a champion for the project. His efforts were influential, in part because of his local credibility as an expert on juvenile justice issues.

In short, Broward was ready. It had the political will to institute change, key stakeholders on board to plan and implement solutions, and committed, indigenous leadership to spearhead the reform effort.

2. The Problems Were Effectively Assessed.

The Annie E. Casey Foundation funded a baseline study to gain a better understanding of local detention practices and relationships among key system actors. The study revealed that most youths held in secure detention entered directly from intake after being arrested for minor crimes. The governing statutes contained very broad detention intake criteria that were not effectively screening out youths who posed little risk of flight or danger to the community.

Moreover, the study revealed that DHRS and public defenders—the two groups with the greatest stake in reducing the detention population—had little input into admission or release decisions.[2] Instead, the doors to the detention center were controlled by police, prosecutors, and judges, whose interests were often better served by decisions to detain. This research made it clear that the locus of detention decision-making had to be shifted and that the criteria for secure detention needed tightening.

The baseline analyses also showed that, although most detainees were charged with non-violent crimes and posed little risk to public safety, they were being detained for lengthy periods. The average length of stay was close to 17 days, but many youths were held much longer at the request of state attorneys. Finally, the baseline study revealed that there were few alternatives to secure detention. The existing home detention program was underused, and other alternatives were nonexistent.

The baseline study provided the foundation for identifying program strategies and targets of intervention. These included facilitating interagency communication and cooperation, developing objective intake guidelines to reduce detention

admissions, increasing the involvement and advocacy of the public defender, developing alternatives to secure detention, taking steps to reduce length of stay, and providing monitoring and feedback through ongoing research.[4]

3. Clear Goals and Objectives Were Developed by Key Stakeholders.

Over several months, the parties involved in mediating the lawsuit developed a voluntary agreement leading to a consent decree. The agreement set forth a comprehensive strategy that, among other things, capped the detention center population at its design capacity and called for DHRS to work with the public defender, the state attorney, and the court. The local stakeholders articulated an overriding goal: to reduce the detention center population. Increasing detention capacity was not an option. They also stipulated the means of achieving the goal: objective admissions policies and practices would be instituted, including restrictive intake criteria and a risk assessment instrument (RAI). Alternatives to secure detention would be developed. Conditions of confinement in the detention center would be improved. Length of stay in detention would be carefully monitored to comply with state laws, and advocacy would take place to release from secure detention those who could safely return to the community. Armed with these clearly articulated objectives, task-oriented working groups were formed to implement the plan.

The success of the project depended on strategies that forged consensus on a straightforward goal, delineated objectives to meet that goal, and brought system actors together to achieve it.

While the initial impetus for the BDI was litigation, the success of the project depended on comprehensive strategies that forged consensus on a straightforward goal, delineated objectives to meet that goal, and brought system actors together to achieve it. Thus, mediation and the settlement agreement, the formation of issue-oriented task forces, and the persistent use of data to monitor change all contributed to the success of the BDI.

4. The Doors to the Detention Facility Were Narrowed.

To discourage the use of secure detention for low-risk offenders, a task force was formed to develop objective screening criteria and an RAI for use at intake. CSYP

staff facilitated this process by introducing the task force to an RAI developed by the National Council on Crime and Delinquency, which the task force then adapted for local use. This strategy helped to build a sense of ownership in the reform effort among the agencies involved.

The Broward admission reforms were empirically based. They included screening criteria—threshold conditions that had to be satisfied before a youth became eligible for detention—and risk assessment, a tool for predicting the risk of flight and future offending among those who met the screening criteria. If a youth met the screening criteria, the risk assessment score would determine whether he or she would be released outright, placed in an alternative program, or detained. A continuum of graduated placements was envisioned, including home, non-secure, and secure detention. The task force initially set tentative risk assessment score cutoff points for each of the various placements. Subsequently, with assistance from CSYP, the task force gathered data on re-offending and failures to appear for those assigned to each risk category. Before it was finalized, the instrument went through 12 iterations to ensure its predictive validity and to win widespread support among the local stakeholders. The RAI proved effective in reducing the flow of cases from intake to detention without increasing the risk of flight or re-offending. Thus, subjective decision-making by law enforcement and prosecutors was minimized, replaced by objective criteria that differentiated in a statistically reliable fashion between youths who required and those who did not require pre-adjudicatory detention.

In Florida at the time of the BDI, post-adjudicatory detention was severely limited by statute, but there were few limits on judges who wanted to securely detain children between referral and adjudication. Because the RAI was an intake screening device, it did not affect judicial decision-making directly, and BDI was only partially successful in persuading judges to exercise restraint in issuing detention orders.

5. Existing Alternatives Were Strengthened.

The baseline study revealed that judges and state attorneys in Broward had little confidence that the existing home detention program provided adequate supervision. Although research indicated that fewer than 10 percent of the home

detainees failed to appear in court or committed new crimes while in the program, this information had not been effectively communicated.

BDI staff educated judges and state attorneys about the data. The project's attorney-liaison also arranged emergency hearings to advocate home detention on a case-by-case basis for youths already in secure detention. In each instance, the attorney-liaison provided feedback to judges on the progress of youths who were released, thus generally boosting their confidence in the project.

Grant funds were also used to modify and strengthen the home detention program. Local training was provided by the director of a successful home detention program in Cleveland, Ohio. In addition, some of the Broward staff visited the Cleveland program to observe the program firsthand.[8]

6. New Alternatives Were Established.

In addition to improving the viability of existing but underused alternatives, project staff worked with private providers to establish new alternatives to secure detention. Casey Foundation funds were used to establish a day reporting center at a local Boys Club to provide education and recreation to youths on home detention. Through persistent efforts, DHRS was persuaded to convert a planned shelter for dependent children into a residential alternative for delinquents. Tenacity and ingenuity were required to convince a private provider to supervise and mentor youths in the facility at a reasonable fee.

7. A Front-Line Troubleshooter Was Hired.

A private attorney who had formerly been a local assistant state attorney was hired as a liaison to judges and prosecutors. She was held in high esteem by the detention gatekeepers whose support was essential to the success of the initiative. She knew them well, appreciated the legal and political constraints under which they operated, and had an insider's perspective on their values, motivations, and concerns. She was apparently well-liked, yet tough-minded and assertive.

The BDI's attorney-liaison performed many functions. She trained DHRS workers, prosecutors, and public defenders in the RAI. She mediated disputes and disagreements as they arose and became "an informal center of a communications

network among DHRS, the court, the state attorney's office, the public defender's office, and private agencies.[5] She worked daily with individual bureaucrats, encouraging the release of youths already in secure detention, identifying obstacles to release on a case-by-case basis, and finding creative ways to overcome them. Her role has been described as "pivotal" to the success of the initiative.[6]

8. The Role of the Public Defender Was Strengthened.

CSYP staff enlisted the support of previously under-involved but potentially powerful groups that favored the reform effort. Though seemingly aligned naturally with the detention reform movement, public defenders had not participated extensively in detention hearings in Broward. Under the BDI, barriers to public defenders' fuller involvement were identified and efforts made to overcome them. Some obstacles were simple and easily corrected—for example, ensuring that paperwork was received quickly from the DHRS intake division. Other obstacles were more complex yet still amenable to change. For example, a communications network was needed to identify cases ripe for appeal. The attorney-liaison and other project staff began notifying the public defender of youths held under questionable detention orders, highlighting cases that had exceeded the statutory 21-day time limit on pre-adjudicatory detention. As a consequence, public defenders litigated dozens of cases to Florida's appellate courts seeking relief for children unlawfully confined.[7] Several appellate decisions were handed down that reversed illegal detention commitments.

9. Mechanisms Were Built to Reinforce the Reform.

CSYP took steps to try to ensure that the RAI was faithfully implemented. Although state attorneys had verbally supported risk assessment screening and admission criteria in the abstract, in practice they often created individual case exceptions to detain youths who did not score in the range that indicated a need for secure detention. In response, an "expediter" position was created in the detention center. The expediter reviewed daily the status of detainees, checked for scoring errors on the RAI, recommended less secure alternatives to the court, and facilitated timely release of children who were detained inappropriately.

In sum, the BDI was a carefully crafted, multidimensional experiment in comprehensive systemic change, championed by highly respected local leaders who were committed, persistent, and credible. After conducting a baseline assessment, project staff anticipated obstacles to success and developed and executed well-planned strategies to overcome them. They involved the leadership of nearly all key justice agencies in a highly focused endeavor with a few clearly articulated goals and objectives. They built ownership in the project among local agencies and actors, organized task groups, and provided them with professional consultation, training, and financial resources to move the reforms forward. The project incorporated mechanisms to monitor progress, make adjustments, and sustain the reforms.

The Broward experiment was an encouraging sign that juvenile detention reform was possible. But political winds shifted just as the replications were authorized.

The Broward experiment was an encouraging sign that juvenile detention reform was possible. The moment seemed ripe for bringing the BDI to scale statewide. As discussed later, many of the principles underlying the BDI were incorporated by the Florida Legislature into the Juvenile Justice Act of 1990. Plans were developed to replicate the BDI in three other jurisdictions first and then statewide. But political winds shifted just as the replications, named the Florida Detention Initiative (FDI), were authorized. Conservative politics and statutory changes made replication far more problematic than anticipated.

Notes

[1] Dale, Michael J. and Carl Sanniti, "Litigation as an Instrument for Change in Juvenile Detention: A Case Study." *Crime and Delinquency*, Vol. 39, 1993, pp. 49-68.

[2] Barton, William H., Ira M. Schwartz, and Franklin A. Orlando, "Reducing the Use of Secure Detention in Broward County, Florida." In *Reforming Juvenile Detention: No More Hidden Closets*, edited by Ira M. Schwartz and William H. Barton, (Columbus: Ohio State University Press, 1994).

[3] Ibid, p. 77.

[4] Orlando, Frank A., Ira M. Schwartz, and William H. Barton, *The Broward County Juvenile Detention Project: Summary of Results*, June 1990, (Fort Lauderdale, FL: Center for the Study of Youth Policy, 1990).

[5] Ibid, p. 6.

[6] Barton, Schwartz, and Orlando, 1994.

[7] Dale, Michael J., and Carl Sanniti, 1993.

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Chapter 2

THE POLITICAL WINDS SHIFT

Two juvenile justice reform acts were passed during the years between the BDI and the FDI. While the 1990 and 1994 acts bore the same name, they represented different philosophies about the appropriate use of secure juvenile detention. In 1990, Florida lawmakers seemed to recognize that secure detention was a scarce resource to be used sparingly and intelligently. But by 1994, the political will to eliminate inappropriate or unnecessary detention had all but disappeared. Because the FDI was conceived in one political era but implemented in another, it was perhaps inevitable that it would fail to match the success of its predecessor.

1. The 1990 Juvenile Justice Reform Act

During the 1980s, the process of screening youths for pre-adjudicatory detention in Florida was governed, as it was in the vast majority of states, by legal provisions that granted justice officials considerable discretion. Detention criteria were broad, and virtually any child referred for delinquency could be securely detained. In practice, there was little predictability or consistency in detention decision-making.[1]

Decision-making about detention was a joint responsibility of DHRS, law enforcement, and state attorneys, but law enforcement and state attorneys essentially dictated detention outcomes. Throughout the 1980s, youths were detained at high rates and in increasing numbers. Over the period 1982-1988, delinquency referrals increased by almost 50 percent. While the rate of detention per referral remained stable over this period, the increase in referrals led to severe detention overcrowding in many jurisdictions. Aware that the 1987 lawsuit in Broward could be followed by additional embarrassing and costly suits and federal intervention in other jurisdictions within the state, Florida lawmakers appeared receptive to juvenile detention reform. Many looked to the BDI as a ready-made model.

a. Significant Changes Are Made in Florida Detention Law.

The 1990 Juvenile Justice Reform Act (JJRA) made major changes in the state's juvenile justice system. Key provisions of the Act authorized a continuum of less-restrictive placements to supplement the state's training schools for convicted

offenders and altered detention philosophy and procedure in significant and substantial ways.

Many of the changes in detention law reflected the contributions of a statewide Juvenile Justice Reform Task Force, chaired by CSYP Director Judge Frank Orlando. The task force played a pivotal role in formulating provisions of the 1990 legislation that institutionalized many of the changes in detention practice developed in Broward.

Each jurisdiction was required to develop a continuum of detention services, including home and non-secure detention. A new position was created for each detention center: a detention review specialist, patterned after the BDI's expediter. The 1990 legislation also embodied the philosophy that secure detention should not be used to punish children or to treat them, or to make it easier for administrators to locate them. The new law limited pre-adjudicatory detention to children who posed a substantial risk of flight or serious offending, or who requested detention for their own protection.

The failure to require a validated instrument also made it easier to make ad hoc modifications as the political winds shifted. The RAI lost its ability to achieve its fundamental purpose.

Perhaps the most significant of the detention-related provisions of the 1990 Act was the one that mandated creation and implementation of a statewide RAI. While the risk assessment concept came from the BDI experience, the 1990 legislation did not mandate a particular form for the statewide RAI. Instead, lawmakers delegated responsibility for developing and validating the instrument to a committee made up of judges, state attorneys, public defenders, and DHRS. The committee failed to follow the example set by the BDI and used a political instead of a scientific process for developing the RAI. No research was conducted to ensure that the instrument was a valid predictive tool measuring risk of flight or probability of re-offending. Not surprisingly, the resulting RAI permitted the secure detention of youths who would not have met detention criteria under the BDI.

The failure to require a validated instrument also made it easier afterward to make ad hoc modifications to the instrument as the political winds shifted. As a consequence, the RAI lost its ability to achieve its fundamental purpose.

b. Positive Impacts Are Quickly Felt.

Despite being less restrictive than the RAI in Broward, the statewide RAI produced an immediate and substantial drop in secure detention admissions. In FY 1989-90, 33,395 cases (27.9 percent of those referred) were admitted to secure detention. In 1990-91, despite a 6 percent increase in delinquency referrals, admissions dropped to 28,287 (22 percent of those referred). Statewide, secure detention use declined from 116 percent of capacity in 1989-90 to 96.8 percent of capacity in 1990-91.

2. More Conservative Political Environment

The positive impact of the 1990 reforms on Florida's detention population was short-lived. Shortly after the new laws were passed, Florida's economy declined. Revenue shortfalls reduced spending on juvenile justice to a fraction of what was necessary to provide the new placement options called for in the legislation.

At the same time, juvenile crime rates rose, especially for serious offenses, and courts responded by increasing commitments. Placement waiting lists were created, and many committed youths awaited placement in their homes, ineligible for post-adjudicatory secure detention for more than 15 days under the law. Concerns about overly restrictive detention criteria were raised in a report distributed to legislators that attributed the rise in juvenile crime to youths awaiting placement. The numbers of youths awaiting placement continued to grow, waiting periods lengthened to months, and DHRS decided to reduce lengths of stay in placement to accommodate the backlog of incoming offenders. This left the agency vulnerable to widespread criticism about its "soft" and "ineffectual" approach to juvenile crime.

Continued support for the 1990 reforms was undermined further by a series of tourist killings in 1993 and 1994 that threatened Florida's economy. Perhaps most shocking was the September 14, 1993, slaying of British tourist Gary Colley during a botched robbery attempt at a rest area in rural north Florida. Four juveniles, including a 13-year-old, were arrested for the murder. The killing sparked a fear-of-crime wave that made national and international headlines. Laden with an image as an unsafe destination, Florida began losing tourist revenue. Conferences were canceled; domestic and foreign tourists went elsewhere.

A further impetus for a tougher approach to juvenile crime came when the Florida Supreme Court struck down the use of secure detention for contempt of court (*A.A. v. Rolle*, 604 So.2d 813 [FLA. 1992]). The prohibition against using detention as punishment for contempt was unpopular with many judges, who felt they had lost authority to enforce orders of the court and maintain dignity in the courtroom. Subsequently, the Circuit Judges' Juvenile Division Section recommended that contempt powers be restored. The judges also recommended eliminating objective criteria for detention. Simultaneously, the powerful state attorney's association pushed to repeal limits on pre- and post-adjudicatory detention. Against this backlash, a task force chaired by Judge Orlando tried to respond to judges' and state attorneys' concerns without completely undoing the 1990 JJRA. For example, the task force recommended that judges be given the power to detain youths for contempt for brief periods (five days versus six months under the previous law). However, such efforts to forestall the complete unraveling of the 1990 legislation did not succeed for long.

3. The 1994 Juvenile Justice Reform Act

As a result of these developments, lawmakers responded with a multiplicity of new initiatives designed to "get tough" on criminals, whatever their age. The 1994 JJRA produced sweeping changes in the state's juvenile justice system.

DHRS was divested of its authority over juvenile justice operations, which were transferred to a newly created Department of Juvenile Justice (DJJ). DJJ was designated a criminal justice agency. Its primary mandate was defined as protection of the public safety, a goal that, unlike the traditional goal of "serving the best interests of children," is not inconsistent with wasteful overuse of detention resources. The budget for the new agency was $440 million, the bulk of which was earmarked for additional commitment beds.

A new category of maximum-risk juvenile placements was created. Already-broad eligibility criteria for transfer of juvenile offenders to criminal court were further expanded, and detention law was once again altered dramatically. The 1994 JJRA removed prohibitions against the use of detention for purposes of punishment or treatment. It reauthorized secure detention as punishment for

contempt and mandated detention for those convicted of gun law violations. Detention eligibility criteria were greatly expanded, and overrides of the RAI were authorized for certain offenses. Perhaps most importantly, post-adjudicatory secure detention of unlimited duration was authorized for youths awaiting placement in the most secure commitment facilities.

The 1994 statutes were antithetical to those enacted just four years previously, as summarized below:

1990 JUVENILE JUSTICE REFORM ACT	1994 JUVENILE JUSTICE REFORM ACT
Created Statewide RAI to Limit Detention	Created Overrides of RAI for Several Minor Offenses
Emphasized Less Restrictive Alternatives	De-Emphasized Less Restrictive Alternatives
Limited Post-Adjudicatory Detention	Unlimited Post-Adjudicatory Detention
Restricted Pre-Adjudicatory Detention Eligibility	Expanded Pre-Adjudicatory Detention Eligibility
Prohibited Detention as Punishment	Allowed Detention as Punishment
A.A. v Rolle Prohibited Detention for Contempt of Court	Restored Detention for Contempt of Court
Reduced Deep-End Placements	Expanded Deep-End Placements

Note

[1]Frazier, Charles E., and Donna M. Bishop. "The Pretrial Detention of Juveniles and Its Impact on Case Dispositions." *Journal of Criminal Law and Criminology*, Vol. 76, 1985, pp. 1132- 1152.

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Chapter 3

THE REPLICATION PROJECT: THE FLORIDA DETENTION INITIATIVE

Despite "tough-on-crime" statutory changes and the transfer of juvenile justice operations to a new agency with a "law-and-order" mandate, the 1994 legislative session also resulted in an appropriation for the FDI of $1.416 million.

Discussions about the FDI had begun the previous year at a meeting attended by the lieutenant governor, legislators and their staff, DHRS administrators, the Casey Foundation, and CSYP. The meeting participants decided to replicate the BDI in three initial sites and thereafter gradually expand the initiative statewide. State funding would be used for program coordinators, detention center staff, and alternatives to secure detention, while the Casey Foundation would support research and provide technical assistance through CSYP.

Politically and organizationally, it is difficult to imagine a more inauspicious beginning for a project aimed at making smarter and fairer use of secure detention.

Thus, planning for the FDI had begun when DHRS was the state's juvenile justice agency. Now, the new agency inherited the initiative. Many of the DHRS administrators involved in planning the FDI remained with the state government as DJJ employees. But other DJJ administrators, including the new agency commissioner, were not familiar with the project.

DJJ would launch the FDI, therefore, at the same time that the new agency was being redefined and reorganized from DHRS. It had a mandate to initiate many new programs of much greater magnitude than the FDI at the same time that the FDI was launched. Politically and organizationally, it is difficult to imagine a more inauspicious beginning for a project aimed at making smarter and fairer use of secure detention.

The discussion below highlights issues surrounding the implementation of the FDI.

1. The Sites Are Selected.

After the broad outlines of the initiative had been established, another meeting was held, while DHRS was still the lead state agency, to select the three initial sites. Site selection was made by DHRS and CSYP based primarily on need, as evidenced by detention overcrowding and lack of alternatives to secure detention. Additional consideration was given to geographic diversity and receptivity of local DHRS administrators to the initiative. Far less attention was paid to the readiness or political will of the local community to undertake the initiative, to the capacity and willingness of local organizations and agencies to collaborate, or to the availability of skilled and experienced leaders at the local level to champion the effort.

Orlando, one of the three sites selected, had the highest levels of detention overcrowding in the state. Its detention center had a rated capacity of 75, but in the previous five years bed use had ranged from 122 percent to 196 percent of capacity. The facility was chronically understaffed. Conditions of confinement were so poor that a lawsuit had been discussed seriously, but the suit had not materialized. Orlando was receiving approximately 10,000 delinquency referrals per year, but had available only 10 non-secure beds as residential alternatives to secure detention. A home detention program was in place that was serving substantial numbers of youths, but it appeared that few of them were secure detention eligible.

Hillsborough (Tampa), another urban site, also had severe detention overcrowding, attributable in large measure to long-standing problems of prosecutorial delay in filing delinquency petitions. Its detention center was designed to house 93 youths, but was operating at 181 percent of capacity when the FDI began. Home detention was well established and routinely used but, as in Orlando, the program was primarily filled with youths ineligible for secure detention. There were no non-secure residential alternatives in this district, which was receiving over 13,000 cases per year.

Marion, a five-county district, was selected in part because it was rural and in part because it was a new DHRS district that did not have the personnel resources of more established districts. Slightly fewer than 6,000 case referrals annually were received in this district. Its detention center, built to house 48, was operating at about 130 percent of capacity. Home detention was well established here, but used

primarily for youths not eligible for secure detention. There were no non-secure beds available in this district.

2. The Goals Are Developed.

Following site selection, CSYP arranged for consultants to meet with local DHRS administrators (DJJ had not yet been created) from the three sites for the purpose of identifying project goals. Striking the right balance between promoting local ownership of a program and serving as a catalyst for a particular kind of reform is difficult. CSYP staff were faced with a dilemma. They had a clear sense of the overall direction they felt the FDI should take. That direction was set forth in the legislative budget request in support of the FDI, which stated its primary goal unequivocally: "to reduce chronic overcrowded conditions in secure detention through the establishment of appropriate non-secure alternatives to secure detention." Yet CSYP staff also recognized that local system change demands a local buy-in, so they wanted to give DHRS officials the latitude to define and control their own programs. When they did, the officials' goals were not the ones set forth in the legislative budget request. Instead, six goals were enumerated, none of which focused explicitly on limiting the use of secure detention. They were:

Promoting local ownership of a program is difficult.

1. To improve communication and coordination among system partners to lead to a better consensus on detention-related issues;
2. To improve the availability and effectiveness of alternatives to secure detention;
3. To increase the appropriateness of the use of detention resources;
4. To improve conditions of confinement and quality of life within the detention center;
5. To increase public understanding of detention purposes and related issues; and
6. To reduce disproportionate minority confinement in detention.

It is unclear whether the goals were prioritized. Moreover, little attention was apparently given to strategies and action plans to achieve the goals. Shortly thereafter, DHRS was divested of its responsibility for juvenile offenders, and DJJ inherited this set of rather vague plans for the FDI.

3. Technical Assistance and Training Are Provided.

After DJJ was created, CSYP conducted a training conference for the FDI site coordinators, detention center administrators, and other DJJ officials. Participants were trained in consensus building, changes in detention law, use of the RAI, data collection, and methods of expediting release for secure detainees. A specialist in case processing visited the sites and subsequently recommended change strategies to reduce lengths of stay. Technical assistance was also provided by legal consultants. Local DJJ officials were trained on detention liability issues and ways of improving the operation of secure detention facilities.

4. Attempts Are Made to Forge Local Partnerships.

CSYP staff met in each site with other agency representatives—including judges, state attorneys, public defenders, law enforcement officials, local juvenile justice boards, and local school boards. The purpose of these meetings was to familiarize potential system partners with the BDI and with the mission of the FDI, to get their input, and to enlist their support. Thereafter, CSYP staff visited the sites periodically and made additional offers of technical assistance.

In the BDI, development and validation of the RAI was an important vehicle for bringing system stakeholders together.

The development of an RAI to reduce the flow of youths into secure detention was central to the BDI and other successful detention reform initiatives sponsored by the Casey Foundation. In the BDI, development and validation of the RAI was an important vehicle for bringing system stakeholders together to work in partnership. Those involved in the FDI faced a different set of circumstances. A statewide RAI for use at intake had already been institutionalized. All jurisdictions used the same RAI, and localities were not free to develop intake criteria that contradicted those established by the Legislature. Thus, a crucial strategy used in the BDI to forge working partnerships in furtherance of the goal of reducing the detention population was foreclosed as an option for the FDI.

5. Statutes Limit Options.

The FDI faced a formidable hurdle in the 1994 JJRA. Detention center populations are a function of several factors: (1) the number of pre-adjudicatory admissions

through intake, (2) the number of pre-adjudicatory admissions via court order, (3) the number of post-adjudicatory admissions, (4) pre-adjudicatory length of stay, and (5) post-adjudicatory length of stay.

Post-adjudicatory admissions and post-adjudicatory lengths of stay were not at issue in the BDI, as both were carefully circumscribed by the statutes applicable at the time. Thus, the BDI was able to focus on reducing intake admissions and secondarily on persuading judges to reduce court-ordered admissions and reduce length of stay.

But significant limits on post-adjudicatory admissions had been eliminated in 1994. Youths awaiting placement in deep-end programs were now required by law to remain in secure detention, and their lengths of stay were not subject to local control. Post-adjudicatory detention admissions and lengths of stay were largely determined by the speed with which DJJ headquarters moved to establish additional commitment beds.

Further, and ironically, the RAI, whose initial development had earlier advanced the cause of detention reform, now stood as an obstacle to reducing the detention population admitted through intake. Its screening criteria were broad, and it was not a scientifically valid prediction instrument.

Strategies open to the FDI were limited in the face of the law, and this was a source of frustration to many individuals at the local sites. Strategies to expedite case processing and early release were suggested by CSYP consultants. These might reduce length of stay, but they would not reduce detention admissions. In this context, it is not surprising that the FDI sites had difficulty formulating priorities, strategies, and work plans to reduce detention admissions.

6. External Pressure for Reform Is Limited.

In the BDI, a diverse array of local stakeholders was involved in a process of mediation. Mediation helped to forge consensus on goals and required the agencies to work together. The initial strategies used in the BDI were designed to foster a commitment to system change and ownership of project goals by several agencies. By contrast, neither site selection nor goal development for the FDI included input from local judges, state attorneys, public defenders, or detention superintendents. Without their input

and participation, the level of local support for the project remained undeveloped. Left out of initial planning decisions, other system actors identified the FDI as solely a DJJ program and felt they owed no allegiance to FDI goals.

Historical tensions between system partners created formidable barriers to communication and cooperation.

Fostering interagency communication and developing working partnerships was perhaps the most difficult of the FDI's tasks. The former DHRS had been held in low regard, and tensions were sometimes high between local DHRS officials and other system partners. The creation of DJJ did not solve that problem. DJJ occupied the same offices as the former DHRS and, at the local level, retained most of the former DHRS personnel, including top-level administrators. Historical tensions between system partners created formidable barriers to communication and cooperation. (In one site, the public defender refused even to attend meetings.)

7. Goal Ambiguity Hinders Progress.

The vagueness of project goals and unclear order of priorities also made it difficult to reach agreement on aims and strategies. The six FDI goals were subject to multiple and even contradictory interpretations. For example, the goal of improving conditions of confinement might be achieved by reducing the detainee population or by expanding detention capacity, although the latter was antithetical to the objectives of the CSYP and the Casey Foundation. Similarly, the goal of increasing the use of alternatives to secure detention might be met by placing more youths on home detention through a process of net widening that would have no impact on detention overcrowding. There was no commitment to analyzing secure detention admissions, indentifying those detainees who could safely be placed in less restrictive alternatives, and advocating the use of alternatives for this limited population.

In practice, goal ambiguity spawned activities that were at odds with the goal of reducing the inappropriate and unnecessary use of secure detention. The confusion over goals sometimes resulted in people working at cross-purposes and occasionally contributed to interagency animosities.

Because FDI goals were vague, almost any meeting or activity relating to detention was considered part of the project. DJJ's periodic progress reports often failed to distinguish between FDI activities and routine work that DJJ staff presumably would have engaged in had the FDI not existed. The project lacked clear identity and focus.

The breadth of goals and failure to set clear priorities also produced a tendency to focus on the enumerated goals as ends in themselves and to lose sight of the central point of the initiative. The project became fragmented. In one site, regular meetings occurred where juvenile justice issues were discussed by judges, prosecutors, and DJJ representatives. They were primarily information-sharing sessions, and detention was only one of many subjects covered. Yet these meetings were described in periodic reports as progress toward goal 1 (improving communication on detention-related issues).

Goal ambiguity spawned activities at odds with reducing the use of secure detention.

Similarly, providing tours of detention facilities to media representatives was reported as progress toward goal 5 (improving public understanding of detention). Yet communications limited to information-sharing and public relations to improve the image of detention centers do not contribute in any meaningful way to reducing detention populations or to developing alternative programs for youths who would otherwise be securely detained.

8. A Lack of Organization of the FDI Occurred at the Local Level.

The FDI was implemented as one of many projects sponsored by a newly formed and mammoth state agency. Programmatically, DJJ's highest priority was to develop new commitment facilities and programs. High priority was also given to symbolic issues, including forging an image that would distinguish it from its predecessor by emphasizing offender "accountability" and "consequences." In light of these concerns, strong leadership for the FDI was lacking within DJJ's central administration.

The local site coordinators were mid-level managers, three or four rungs below the juvenile justice manager (the senior administrator at the local level) in the organizational hierarchy. In the project's earliest days, some juvenile justice managers

worked closely with site coordinators and took strong proactive steps to advance the central mission of the FDI. In one site where most judges favored major expansion of detention capacity, the juvenile justice manager provided strong leadership and adopted several strategies to reduce the secure detention population. He met with the judges individually and encouraged them to transfer youths out of secure detention, presenting them with data showing the low risks associated with home detention. He encouraged intake screeners to score mitigating circumstances on the RAI. He hired an attorney to challenge unlawful detentions in court on a case-by-case basis. Unfortunately, these actions further exacerbated already existing tensions between local DJJ officials and the judiciary. Perhaps most significantly, the decisions of this local manager were not supported by DJJ's central administration, which transferred the manager to another jurisdiction, an action that could only have a chilling effect on other local managers.

Site coordinators, who generally had primary responsibility for the FDI, were not vested with decision-making authority. For example, although they might solicit private providers to operate non-secure residential or day treatment programs, site coordinators had no authority to enter into contracts on behalf of the agency. In all three sites, plans by site coordinators to develop detention alternatives were repeatedly stymied by lack of support from senior administrators, especially those in the organization's central headquarters. Site coordinators' potential to advance the initiative was further undercut in two of the sites when they were assigned significant other responsibilities, subordinating their roles in the FDI to other organizational interests. Their names were associated with these other functions, which tended to minimize the visibility of the FDI both outside and within the agency.

Outside DJJ, no other system actors emerged to spearhead the FDI. Many of those serving as juvenile judges, prosecutors, and public defenders in 1997 were unaware of the project. Each of the sites had experienced high levels of personnel turnover during the previous three years. Juvenile judges and state attorney and public defender juvenile division chiefs, all crucial to the success of the initiative, were rarely in their jobs for long before moving on to more prestigious positions.

Within DJJ, managers and facility superintendents were likewise frequently replaced. The ever-changing work environment was an additional impediment to keeping the FDI on track.

9. The Role of CSYP in the Local Sites Was Diminished.

After an initial period of considerable on-site activity, CSYP staff remained involved in the FDI only from afar, keeping in phone contact and visiting the sites periodically. In one of the sites, DJJ officials acknowledged efforts to keep CSYP at a distance. Although some shared CSYP staff's interest in reducing unnecessary reliance on secure detention, they believed this agenda was unachievable because it was inconsistent with the wishes of judges, prosecutors, and senior administrators within their own organization. They were not frank in discussing the issue with CSYP staff, but merely declined the further technical assistance and guidance that were offered.

The ever-changing work environment was an additional impediment to keeping the FDI on track.

In another site, the role and capacities of CSYP were unclear to many local officials. Only somewhat familiar with the Broward project and CSYP's role in it, some feared that the FDI was really a smokescreen to gather data to support a lawsuit. Others wanted more help than they received from CSYP and its consultants, but they did not recognize that CSYP and its consultants had the expertise to provide the assistance they needed. It would have helped had CSYP staff been on-site more frequently to gain an in-depth understanding of the activities and climates in each location and to build stronger relationships with key system actors.

10. Data Collection and Research Were Not a Priority.

CSYP, the Casey Foundation, and others involved in planning the FDI understood that collecting accurate and relevant data at baseline and throughout a project are essential to ensure that the reform process is carefully documented and that participants are provided with feedback about the impact of project activities. In 1993, detailed plans were prepared to collect baseline data. A case-processing consultant brought in by CSYP outlined data needs at each site. Unfortunately, these data were not gathered.

Each of the site coordinators prepared quarterly progress assessment reports, but these omitted many of the key data elements needed to document FDI progress and included other data largely irrelevant to the goals of the initiative. Additionally, a comprehensive evaluation proposal was submitted to DJJ by a respected university researcher. CSYP staff urged DJJ to seek funding for the study, but funding was not provided. We can conclude only that it was not an agency priority.

Chapter 4

FLORIDA DETENTION INITIATIVE OUTCOMES

While it is difficult to assess the impact of the project because of the dearth of empirical data, both quantitative and impressionistic evidence strongly suggest that the FDI had a minimal effect on detention policies and practices in the three sites. In the fall of 1997, the initial plan to expand the project to other areas of the state was abandoned, and funding for the program was discontinued.

Orlando

During the FDI, this site's secure detention capacity grew from 75 to 151 with the opening of a new detention center. The new center also quickly became overcrowded, prompting officials to make plans for yet another facility. As was true in the other sites, increased demand for detention space was driven by higher numbers of juvenile justice referrals that met the expanded RAI criteria and by increased numbers of commitments for which post-adjudicatory secure detention was mandated (see Figures 3 and 4). Despite the FDI, detention use increased in this site at a rate higher than in the remainder of the state (see Figure 5). Many youths in detention did not meet legal criteria, but unlawful detentions went unchallenged. In 1997, this site had the highest rate of non-compliance in the state. During the project, the detention center received two below-satisfactory per-

FIGURE 3

RESIDENTIAL PLACEMENT WAITING LIST, 1992-1997

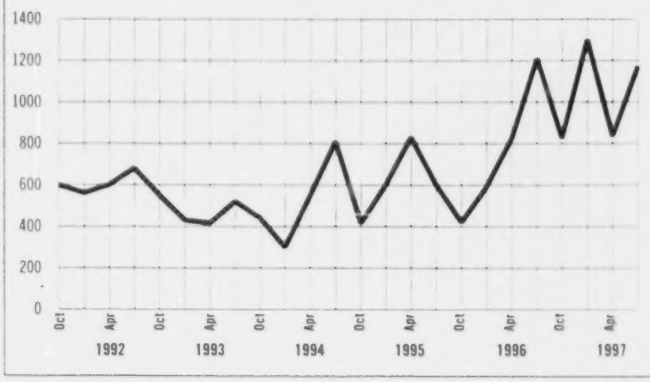

FIGURE 4

COMMITMENTS IN THE FDI SITES, 1992/1993 to 1996/1997

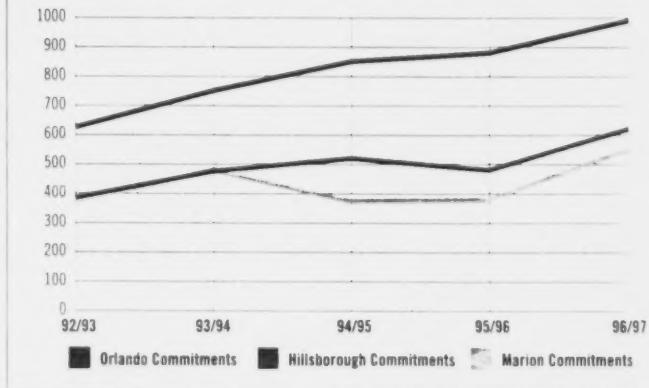

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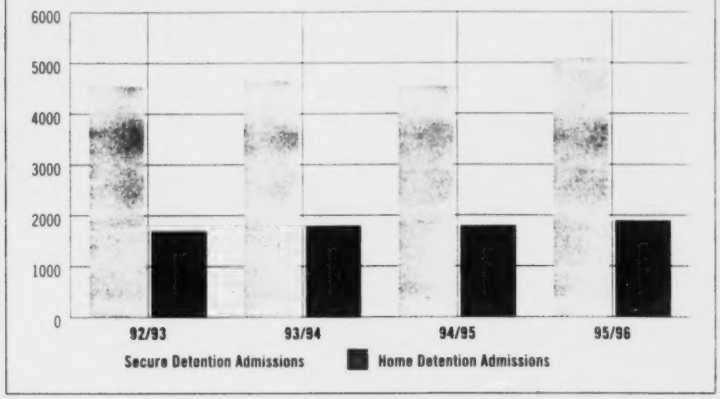
FIGURE 5

CHANGING PATTERNS OF DETENTION USAGE IN ORLANDO UNDER THE FDI, 1992/1993 to 1995/1996



formance assessments and had a number of high-profile incidents that led to the arrest of several employees.

The numbers of youths in home detention increased substantially, but the rate of home detention usage declined, representing a net loss compared to pre-FDI levels. Efforts to generate new alternatives to secure detention were unsuccessful. Plans to establish day treatment programs were made several times, but none were approved for funding by agency administration. Residential alternatives to secure detention were likewise sought but not funded: At the end of the project, only 10 non-secure beds were available, the same as at the start of the FDI.

From the outset, little support existed for the kinds of reforms undertaken in Broward, and efforts to build consensus and collaboration among system stakeholders met with little success. In mid-1995, relationships among DJJ, the court, and the public defender deteriorated and remained poor through 1996. Detained youths were rarely represented by counsel and, despite encouragement from many quarters, the public defender did not seek additional appointments and declined to attend meetings with other system actors. The Juvenile Justice Council, an influential body that includes representatives from juvenile justice agencies as well as community leaders, endorsed only two of the project's goals. Neither had to do with the more judicious use of detention resources.

Hillsborough

The detention center in this site was operating at 181 percent of capacity when the FDI began and at 176 percent of capacity at the end of 1996 (see Figure 6). This decline is somewhat misleading, since a new 125-bed facility (termed an "Assignment Center") was opened during the project to house youths awaiting placement, and an additional 52-bed detention facility was nearing completion as

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the project drew to a close. From the outset, detained youths were almost always represented by counsel, and few detentions did not meet legal criteria.

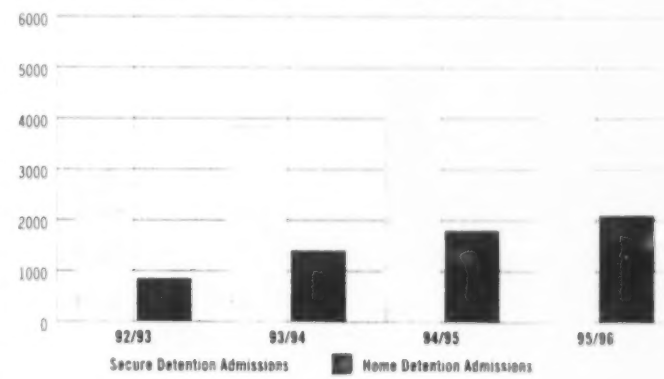
A primary factor in overcrowding was prosecutorial delay in filing petitions. Until a petition is filed, a case cannot proceed to adjudication. Florida law permits juveniles to be securely detained for up to 21 days prior to adjudication. In some jurisdictions (e.g., Orlando) petitions were routinely filed within 24 hours of arrest, facilitating adjudication and timely release from detention. In Hillsborough, petitions were rarely filed in a timely manner, and youths were routinely detained for 21 days.

A case-processing consultant suggested that system actors conduct a tracking study to identify processing bottlenecks, but the study was not undertaken. Subsequently, CSYP staff met with the state attorney, who agreed to form a task force to resolve the problem. A task force was formed and made several recommendations, but they were not followed. Many local officials stated that some key gatekeepers viewed pre-adjudicatory confinement as a form of appropriate punishment.

The use of home detention increased during the FDI. Rates of use exceeded state averages. However, it is unknown whether home detention functioned as an alternative or an add-on in cases that would otherwise have been released without conditions. A new alternative, implemented in conjunction with the Tampa Police Department, was launched in 1995 for youths whose RAI scores placed them in the range for secure detention. These youths were returned to their homes and supervised thrice daily by police officials. The program had 10 slots available, but the police department that controlled entry to the project was highly selective. The program averaged only 2.5 participants per day.

FIGURE 6

CHANGING PATTERNS OF DETENTION USAGE IN HILLSBOROUGH UNDER THE FDI, 1992/1993 to 1995/1996

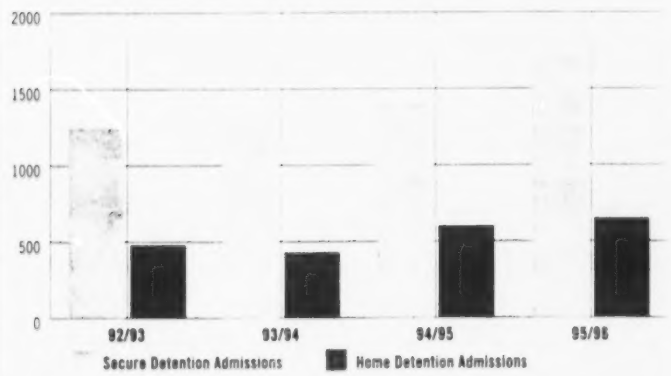


Secure detention declined in 1996 after an Assignment Center was opened.

Perhaps the most interesting endeavor undertaken in Hillsborough is the Minority Over-Representation Initiative (MORI), which began in 1993 and expanded when the FDI began. A collaborative endeavor involving several community agencies, MORI operates prevention and diversion programs for minority youths. Because the focus is on first-time offenders not eligible for secure detention, the initiative has no direct or immediate impact on secure detention. Its impact on reducing detention is indirect, in that it may prevent first-time minor offenders from subsequently committing more serious, detainable offenses.

FIGURE 7

CHANGING PATTERNS OF DETENTION USAGE IN MARION UNDER THE FDI, 1992/1993 to 1995/1996



Marion increased its home detention program, but it could not limit secure-detention usage during the FDI.

Marion

The Marion detention center was operating at 129 percent of capacity as the FDI began and at 190 percent of capacity at the end of 1996. As in the other FDI sites, expanding center capacity was viewed by most system actors as an appropriate response to overcrowding. Construction of 20 additional beds was completed in early 1997, but the facility remained overcrowded. Rates of secure detention increased during the FDI and at the end of the project were on a par with the remainder of the state (see Figure 7).

The numbers of youths on home detention increased as well, but only modest gains were registered in rates of use. Home detention rates in this site remained below the average for the rest of the state. As in the other sites, the extent to which home detention was used for youths who otherwise might have been placed in secure detention is not known. A non-secure residential alternative to detention was developed shortly after the project started, using FDI funds for two beds for domestic violence offenders who would otherwise have been securely detained. But the contract proved too expensive and was not renewed for a second year.

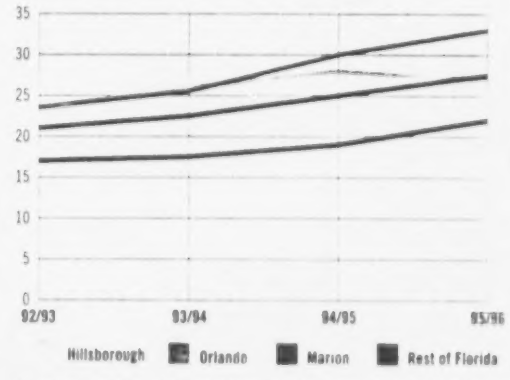
This site differs from the others in its diversity. It encompasses five counties, each with its own juvenile justice policies and problems. Focusing law enforcement (26 departments), state attorneys (five offices), public defenders (five offices), and approximately 30 juvenile judges on the FDI was difficult in such a geographically and organizationally diverse environment. A consultant recommended that the site conduct a tracking study of a sample of cases from arrest through disposition to identify and understand problems in case processing in the five counties. A case-processing task force was formed, made up of DJJ representatives, state attorneys, public defenders, court clerks, and law enforcement officials. However, a study was not undertaken due to insufficient staff to gather the data. The site coordinator initially doubled as the detention review specialist and had little time to devote to the FDI aside from attending meetings and preparing periodic reports.

DJJ officials in Marion were eager to participate in the FDI but needed guidance and direction with respect to strategic planning. They were advised to build partnerships, but they were unclear how partnerships could relieve problems of detention overcrowding. Many were troubled by the influx of youths awaiting placement, some of whom were securely detained for as much as a year. Many meetings were held, which may have elevated awareness of detention issues, but they did not lead to action plans and activities that advanced the cause of the initiative.

Figure 8 compares rates of secure detention in the FDI sites with the rest of the state.

FIGURE 8

RATES OF SECURE DETENTION PER 100 REFERRALS IN THE FDI SITES AND THE REST OF FLORIDA



Trends were similar in Marion, Orlando, and the rest of Florida. Hillsborough showed a decline after it opened an Assignment Center for committed detainees.

Chapter 5

LESSONS LEARNED

Juvenile detention practices are amenable to reform. The BDI resulted in smarter, fairer, and more humane use of detention resources. The Casey Foundation's JDAI demonstrated that detention practices can be improved even in contentious political climates.

Successful reform movements have had a local focus, however. This report discussed the attempt to bring to scale a successful local initiative in Florida, where shifts in the political environment, expansion of statutory detention criteria, and transfer of primary responsibility for the project to a centralized state agency proved insurmountable roadblocks to replication.

In an era where the juvenile "superpredator" is part of our cultural mythology, it is not unusual that atypical but highly publicized crimes prompt major shifts in juvenile correctional policy.

The following are the major lessons learned from the Florida experience. The first two lessons underscore the importance of choosing the time and place wisely. Lessons 3 through 5 stress the need for grass-roots programs and suggest ways that these might be encouraged. The next two lessons emphasize the central role of scientific research in the development and implementation of juvenile detention reform. Lessons 8 through 10 focus on three processes that can be critical to successful program implementation. Lessons 11 and 12 are narrower than the others, and their applicability depends on the political and organizational environment in which the detention reform is planned.

The lessons are necessarily intertwined and overlapping. While they may not all apply to every replication attempt, they should provide a checklist to other jurisdictions seeking multi-site detention reform.

1. Assess the Political Climate Before Implementing the Initiative.

The climate surrounding juvenile justice is volatile and uncertain. Public opinion and legislative policy shift rapidly in response to notorious cases. In an era where the juvenile "superpredator" is part of our cultural mythology, it is not unusual that atypical but highly publicized crimes prompt major shifts in juvenile correc-

tional policy. Legislation concerning confinement policies has become a ubiquitous feature of the politics of juvenile justice.

In 1990, based on lessons learned in the BDI, the state legislature had endorsed the view that secure detention should be used sparingly and never for purposes of punishment. The risks to public safety associated with this policy were perceived to be minimal. In this environment, the Casey Foundation and the CSYP began work on bringing the FDI to scale statewide.

While discussions about replicating the BDI were under way, the legislature reversed its juvenile justice policies in the wake of widely publicized teen killings. Detention criteria were expanded to cover a broader range of offenses. Detention centers were redefined as appropriate places for punishing children. Long-term detention was mandated for committed youths awaiting placement. DJJ was formed as a crime control agency with a mission to "get tough" on juvenile crime. Yet plans for replicating the BDI proceeded apace, despite the changing political and organizational climate.

The environment in which detention reform was to be undertaken had become unstable. The agency that was to spearhead the initiative was about to undergo a major reorganization. DJJ's organizational priorities and commitment to the reform initiative needed to be assessed.

Moreover, the impact of changes in the detention law was difficult to predict. The effects of the legal revisions on the size and composition of detention population needed assessment. Such an assessment would have revealed that the strategies of the BDI would not be sufficient to counter the impact of newly mandated pre-adjudicatory and post-adjudicatory admissions or extended post-adjudicatory lengths of stay.

In retrospect, going to scale should have been delayed while strategies were rethought in light of the altered political, organizational, and legal context surrounding the FDI.

2. Choose Sites Based on Readiness as Well as on Need.

Site selection is critical. It must take account of needs, such as levels of detention overcrowding, conditions of confinement, and lack of secure detention alterna-

tives. But site selection must also consider the strengths and capacities that a site can bring to a project. This means conducting a careful inquiry into the level of commitment of many potential stakeholders—courts, prosecutors, defense attorneys, community organizations (e.g., Boys Clubs, Girls Clubs), juvenile justice boards—as well as the agency responsible for detention operations. It also means considering the climate among agencies, the level of turnover among agency administrators, their experience with collaborative projects, and other projects in which they may be involved.

3. Local Detention Reform Initiatives Need Local Control.

The BDI began as a local, bottom-up effort championed by articulate local spokespersons with political power. Their advocacy was heard and responded to by other system actors in the community and at the very highest levels of local government.

In contrast, the FDI involved a top-down process. When talks about the FDI began, juvenile justice was administered by DHRS, an agency that was largely decentralized, allowing considerable control at the local level. When juvenile justice operations were transferred to DJJ, a more centralized approach was taken. DJJ officials at central headquarters were unwilling to give local administrators autonomy to operate the project, including the authority to enter into interagency agreements or to expend funds earmarked for the development of local detention alternatives. Unlike the BDI, local leadership of the FDI never emerged; the one DJJ manager who did take some initiative was transferred to other responsibilities.

4. Detention Reform Requires Ownership by Multiple Agencies.

In the BDI, representatives from courts, prosecution, legal defense, DHRS, and CSYP were all involved from the outset. They reached consensus on project goals and priorities, then developed action plans that would continue to bring them together in working groups. Joint ownership of the initiative was established, which facilitated successful implementation.

In contrast, no agencies other than DHRS and CSYP were involved in decisions to undertake reform initiatives in Orlando, Hillsborough, and Marion.

No other local system actors were involved in setting project goals. With the formation of DJJ, the FDI became just another state agency program. The FDI was associated only with DJJ.

The project could not succeed without buy-in from the other agencies that controlled the gates to detention centers and program alternatives. Other agencies' participation was subsequently sought, but it was very difficult to obtain, in part because they had been omitted from earlier decisions. All potential partners should be brought in, not only for implementation, but also for goal-setting and strategic planning.

5. Offer Contingent Incentives to System Partners.

Research has shown that detention reforms may need to provide incentives to overcome resistance from juvenile justice officials. It may not be enough to simply promote more humane and cost-effective treatment of children. Where, for example, an important system partner has reservations about potential adverse impacts on children of releasing them into the community, the success of the initiative is jeopardized.

In the FDI, the primary incentive for participation was the funding given to DJJ to hire additional detention staff and site coordinators. No other system partner received funds. Nor was DJJ funding for the second and third years of the project linked to any progress indicators.

System partners can be encouraged through meaningful incentives contingent on good-faith efforts to contribute to the success of the initiative. For example, judges might be given funds to hire a coordinator for a court guardian program in which trained community volunteers provide after-school mentoring to youths released prior to adjudication. Public defenders whose resources are already strained might receive funds to employ social workers to develop alternate placement plans for detained children. Such incentives encourage buy-in and simultaneously advance the mission of the initiative.

6. Good Data and Evaluation Are Essential.

The FDI should not have begun without a solid empirical foundation and a commitment to evaluation. Baseline data and analyses of relevant dimensions of the

problem are vital to strategic planning. Otherwise reforms operate "in the dark," guided by hunch, speculation, and political considerations. Ongoing documentation of program activities and interim measurement of results are needed to keep a project on track, to measure progress toward goals, and to obtain feedback on which to base informed decisions about refinements and mid-course corrections. As was demonstrated during the course of the BDI, consistent feedback is an important tool to convert skeptics into supporters of a particular policy or strategy. Finally, the analysis of qualitative and quantitative data collected at baseline, at interim intervals, and at the conclusion of a reform initiative are essential to gauge the effectiveness of project strategies, procedures, and policies and gain insights to guide future efforts.

The FDI should not have begun without a solid empirical foundation and a commitment to evaluation.

7. Risk Assessment Instruments Must Be Empirically Validated.

In jurisdictions that have adopted or contemplate adopting RAIs, efforts to require ongoing review and revalidation of these instruments must become an integral part of the detention reform agenda. Otherwise, the RAI can become a straitjacket that binds the juvenile justice system to inappropriate use of detention.

Too few legislators understand the methods by which risk assessment devices are properly constructed or the importance of ensuring that they retain their predictive validity. This must be a scientific and not a political process. Yet in Florida the committee established to oversee the RAI rejected appeals for scientific construction and validation of the instrument.

8. Select Clear and Attainable Goals.

Clear articulation of goals is vital to the success of any reform movement. Vague and overly ambitious goals are difficult to achieve. And vagueness has a high price. Because vague goals are subject to multiple interpretations, they may create the illusion of consensus among participants who in reality hold very different views about what should be done and what they hope to accomplish. Almost invariably dissension will emerge, stymie collaborative activity, and require that goals be abandoned or renegotiated. The experience of the FDI teaches that vague goals may translate

into actions that are fragmented and unrelated to the central mission of the initiative. Goals that are explicit, measurable, and attainable are less likely to be misunderstood and misapplied than those that are implicit, vague, or overly broad.

9. Complicated System Reform Requires Credible and Experienced Leadership. Reform initiatives need capable leaders who command the respect of other system actors. It is especially important that leaders receive the support of judges and prosecutors, as their cooperation is indispensable to the more intelligent and judicious use of detention resources. Pivotal roles in the BDI were played by Judge Frank Orlando and the attorney-liaison, both of whom were held in high regard by key stakeholders.

In the BDI, neither Judge Orlando nor the attorney-liaison was affiliated with a juvenile justice system agency. Instead, they were perceived by system actors as neutral parties, non-aligned with any particular organizational interest. Neutral affiliation may not be necessary in every environment, but its importance grows in direct proportion to the degree of mistrust, contentiousness, and stratification among organizational participants. A neutral party is in the best position to foster interagency communication and mediate disagreements among system actors. These were critical functions performed by the attorney-liaison in the BDI. These functions could not be performed effectively by site coordinators or other administrators in the FDI, in part because they were perceived as having a hidden agenda to work for the benefit of DJJ. The focus must be on championing the interests of youth and public safety, not on advancing bureaucratic interests.

Effective project coordination also requires juvenile justice expertise and effective advocacy skills, perhaps best embodied in an attorney. The major gatekeepers of detention are judges and prosecutors whose interest and level of participation in detention reform can make or break an initiative. In the BDI, it was very helpful that the attorney-liaison was a former prosecutor who could effectively handle a broad range of issues—from general policy matters to advocacy in individual cases—with the authority of a shared legal perspective.

The coordinator must be a person with the vision to promote the central mission of the project as well as the administrative ability to provide oversight and

direction in building consensus among system partners, facilitating strategic planning, and implementing reform strategies.

10. Technical Assistance and Support Need to Be Consistent and Vigilant.

If an initiative is championed by people physically remote from the implementation site, it is vital that they maintain sufficient on-site presence to possess first-hand knowledge of project activities, to keep abreast of changing events and circumstances and, perhaps most importantly, to exert pressure firmly, diplomatically, and consistently to move the reform forward. Pressure and presence are essential because all systems have a certain amount of resistance to change that must be overcome.

It takes time and patience to establish relationships of trust with local participants so that they will be frank and forthcoming about their needs and concerns. This kind of familiarity capitalizes on unanticipated opportunities to advance reforms that are going well, facilitates decisions to modify projects that are making little progress, and obviates wasteful investment in sites with diminished commitment to core principles of the initiative. In the FDI, a more persistent and insistent presence by the CSYP would have been useful.

11. In Some Environments, Litigation May Be Necessary.

In environments hostile to detention reform, litigation may be a necessary catalyst for change. Litigation is a powerful strategy especially when, as in the BDI, it promotes consensus-building and sustained partnerships in reform. There are other coercive or conflict strategies apart from litigation, but they are unlikely to be successful unless they are used by credible and powerful people who are prepared to ruffle feathers and withstand criticism while they work to garner support. With no lawsuit and no tolerance from within DJJ for conflict strategies, the FDI had no real catalyst for reform.

12. Strategies May Be Needed to Address Post-Adjudicatory Detention.

Between the BDI and the advent of the FDI, a major new route to detention opened up in Florida with legislative endorsement of extended post-adjudicatory detention. Inappropriate and inadequate placement options, along with insuffi-

cient attention to minimizing length of stay, combined with this new legislation to make post-adjudicatory detention a major problem in Florida.

Those involved in detention reform efforts over the past decade have relied extensively on intake screening instruments to reduce the flow of cases into detention centers. While these "front door" tools will undoubtedly continue to be useful, it is essential that attention be given to developing strategies to close the "back door" as well.

13. Replication May Be More Difficult than Implementing a Single-Site Reform. The success of the BDI and its impact on the 1990 JJRA provided ample reason to be optimistic that the FDI would also be a successful undertaking, especially since experienced leaders from the CSYP would help guide the replications. Yet, as this report has shown, juvenile detention initiatives are highly sensitive to the external political environment. The difficulty and complexity of exporting a reform to another place and in another time should not be underestimated. Detention reform occurs in a dynamic action setting, and being prepared to respond to change is critical to success. This final lesson is not meant to discourage detention reformers from pursuing a statewide agenda, but it does urge caution and care. While there is no single formula for success, it is clear that reformers must expect the unexpected when going to scale.

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